IN THE HIGH COURT OF BOMBAY AT GOA.

CIVIL REVISION APPLICATION NO. 165 OF 2002.

Shri Peter Paul Clemente
Almeida, represented by
his lawful attorney Miss
Milagrin D'Souza, r/o
H. No. 142, Karaswado,
Mapusa, Goa. ... Petitioner.

Versus

Rajaram Shantaram Salgaonkar,
(deceased) represented by:
(a) Mrs. Rajaram S. Salgaonkar,
(b) Mr. Bhanudas Rajaram
Salgaonkar,
(c) Mr. Suresh Rajaram
Salgaonkar,
(d) Mr. Anand Rajaram
Salgaonkar,
All residing at Sirsaim,
Goa. ... Respondent.

Mr. E. Dias, Advocate for the Petitioner.

Mr. R.G. Ramani, Advocate for the Respondents.

Coram: P.V. HARDAS, J.

Date: 22nd August 2002.

ORAL JUDGMENT.

By consent of parties, this revision is taken up for final disposal at the stage of admission.

2. This Civil Revision Application has been filed against the Order passed by the IInd Additional District Judge, North Goa, Panaji, dated 4th October 2001, in Land Acquisition Case No. 70 of 1997, declining the request of the present petitioner to keep the reference under the Land Acquisition Act in abeyance till the disposal of the tenancy issue pending

before the Mamlatdar of Bardez.

3. The present petitioner had filed an application to keep the reference in abeyance on the ground that an issue, whether the present respondents are in exclusive possession and enjoyment of the suit property as tenants and now as owners, is referred to the Mamlatdar for decision in Civil Suit No. 50/94/B by the Civil Judge, Junior Division, Bicholim.

4. I have heard the learned counsel for the parties. It is true that such an issue has been referred to the Mamlatdar for his decision. However, a perusal of the Order of the learned trial Court discloses that the present respondents have produced on record a certificate of purchase in Form No. III-A issued by the Mamlatdar of Bardez, which certifies that the deceased respondent was the tenant of the suit property and had deposited Rs. 800/- in lumpsum towards the purchase price and, hence, the deceased respondent was the deemed purchaser of the land. This certificate of purchase has not been cancelled and is still in force. The erstwhile owner of the suit property had filed an appeal against the Judgment and Order passed by the Joint Mamlatdar of Bardez. The said appeal was dismissed by the Deputy Collector on 12th February 1998. In this backdrop of facts, the

learned trial Court has rightly come to the conclusion that since the deceased respondent had already purchased the land and since the certificate of purchase had been issued in his name and the appeal filed against the said Order had been dismissed by the Deputy Collector, there was no need to keep the proceedings of the reference in abeyance awaiting the decision of the Mamlatdar on the issue of tenancy. The application filed by the present petitioner for mutation in his favour was also rejected by the Mamlatdar of Bardez. The learned trial Court, therefore, concluded that the purchase certificate in the name of the deceased respondent still 'stands good'. The learned trial Judge, therefore, dismissed the said application.

5. I have heard Mr. Dias, learned counsel appearing for the petitioner and Mr. Ramani, learned counsel appearing for the respondents. I have also perused the Order of the learned trial Court and I do not find any perversity in the reasoning of the learned trial Court. There is no jurisdictional error or any material irregularity in the exercise of jurisdiction. There is, thus, no merit in the revision and the same is dismissed with no order as to costs.

(P.V. HARDAS)
JUDGE.

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